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OFFICE OF PETITIONS

In re Application of	:	
Gavrilă et al.	:	
Application No. 10/727,584	:	
Filed: December 5, 2003	:	DECISION ON
For: HYBRID COMMUNICATION	:	PETITION
TERMINAL - ALARM SYSTEM	:	

This is a decision in response to the correspondence filed December 20, 2005. The correspondence is properly treated as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed March 8, 2004. The Notice required the signature of inventor Gavrilă on the oath or declaration, and a late filing fee surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on November 15, 2004; however, the reply was incomplete because Applicant failed to include the late filing fee surcharge.

Applicant was notified that the reply was incomplete in a Notice of Incomplete Reply (Nonprovisional), mailed December 1, 2004.

Applicant was also informed that the period of reply remains as set forth in the Notice.

On January 11, 2005, Applicant submitted the late filing fee surcharge.

A Notice of Abandonment was mailed October 27, 2005.

The instant petition

Applicant files the instant petition and asserts that the late filing fee surcharge of \$65.00 was withdrawn from Applicant's credit card account and, having heard nothing further from this Office until receiving the Notice of Abandonment, Applicant's believed that their explanation filed November 15, 2004 was accepted by this Office.

Applicable Law, Rules and MPEP

37 CFR 1.135. Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require.

Analysis and conclusion

Applicant was notified in the March 8, 2004 Notice, that the signature of inventor Gavrilă was required on the oath or declaration, and that a late filing fee surcharge was also required. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

As such, Applicant was given until May 8 to file an oath or declaration that included inventor Gavrilă's signature, and to file the surcharge. The Notice clearly stated that to avoid abandonment the surcharge must be submitted with the oath or declaration.

Applicant filed the oath or declaration and an explanation on November 11, 2004, over six months after the oath or declaration was due, and failed to include the surcharge as required.

Applicant now asserts that because no further information from this Office was received, Applicant assumed that the explanation was accepted.

Applicant is advised that the application becomes abandoned by operation of law, and not by receipt of notice from this Office. While this Office attempts to notify Applicant's of the status of their applications, it is Applicant's responsibility to have an awareness of the rules, and it is Applicant's responsibility to file a complete and proper reply to the Office communication as required by the Office communication. As stated in 37 CFR 1.135(b), Applicant must submit a complete and proper reply as the condition of the application may require.

Here, the application became abandoned on May 9, 2004 because Applicant failed to file a complete and proper reply by the due date of May 8, 2004. Extensions of time were available, but Applicant did not request any extension of time, nor did Applicant pay for any extension of time. When Applicant filed the reply on November 15, 2004, the Application was already abandoned.

The Notice of Incomplete Reply was sent in error and is hereby withdrawn.

Applicant's options

Applicant must file a petition to revive the application. Applicant is also strongly advised to contact a registered patent attorney. This Office cannot assist in the preparation of patent application papers.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

A handwritten signature in black ink, appearing to read "Derek L. Woods". The signature is stylized with a large, looped "D" and "W".

Derek L. Woods
Attorney
Office of Petitions